

In Re Pharmaceutical Industry Average Wholesale Price Litigation

As indicated in the chart above:

AGE

- Medicare Beneficiaries are considerably older than the general population of Adults 18+. 72.4% of Medicare Beneficiaries are 65 years of age and older. 71.1% of the general population consists of adults 18 – 54 years of age.

INCOME

- 10.1% of Medicare Beneficiaries have an income of \$75,000+ while 31.1% of Adults 18+ have an income of \$75,000+. 52.2% of Medicare Beneficiaries have an income under \$30,000 as compared to 27.9% of Adults 18+.

EDUCATION

- Adults 18+, as a whole, are more educated than Medicare Beneficiaries. 51.9% of Adults 18+ attended or graduated college while 35.9% of Medicare Beneficiaries attended or graduated college.

GENDER

- Medicare Beneficiaries include a higher percentage of women than Adults 18+.

PAID MEDIA PROGRAM

As indicated, direct notice will be provided to all identifiable TPPs and Medicare Part B Beneficiaries. To supplement the TPP direct notice, ad placements in trade publications directed to TPPS will be used.

To reach unidentifiable Medicare Part B Beneficiaries and heirs, KNC recommends the use of measurable paid media. Paid media advertising is guaranteed to appear, allowing for control of the content, timing and positioning of the message, making it an invaluable part of any notice campaign. Newspapers, consumer magazines, television, radio and the Internet, among other sources, offer paid media opportunities.

In considering which media to use for this case, KNC evaluated the cost-effectiveness, exposure opportunities and reach potential of each media type. Television was not selected due to its high cost. Radio is a frequency medium best used locally. Print media was selected because of its widespread use, and its value as a credible and tangible information source which allows for extended body copy.

In choosing which placements would be best for this case, KNC reviewed all available consumer publications for the compatibility of the editorial and the creative message. Consumer magazines and newspaper supplements offer efficient and cost-effective vehicles for reaching all demographic segments of the population. Given the broad scope of the Class in this notice program and the demographics and media habits of the target audiences, consumer magazines and newspaper supplements are recommended.

NEWSPAPER SUPPLEMENTS

Parade and *USA Weekend*, inserts known as newspaper supplements, are carried in weekend or weekly editions of 962 newspapers reaching every media major market in the country (eight newspapers carry more than one supplement). These magazines, published on newsprint, contain articles written for broad, general appeal and they encourage readership through brevity. Issues are typically less than 30 pages. For this Notice Program, newspaper supplements are recommended because of their broad geographic and demographic reach capability. They provide coverage in all 50 states and the District of Columbia. (See Exhibit 3.)

KNC recommends the following activity:



- A half-page ad (4-5/8" x 10-3/4") will be placed once in *Parade*, with an estimated circulation of 32,700,000.
 - *Parade* is carried in the Sunday edition of 373 daily newspapers and is the highest circulating magazine in the world. Carrier newspapers serve major urban and suburban markets in the U.S.
 - The average issue of *Parade* is read by 40.7% of Medicare Beneficiaries and 36.8% of Adults 18+.
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- A half-page ad (4-5/8" x 10-3/4") will be placed once in *USA Weekend*, with an estimated circulation of 22,700,000.
 - *USA Weekend* is inserted in the weekend edition of 589 daily newspapers in major markets complementing the U.S. markets served by *Parade*.
 - The average issue of *USA Weekend* is read by 27.3% of Medicare Beneficiaries and 23.7% of Adults 18+.
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CONSUMER MAGAZINES

Thousands of consumer magazines offer national advertising opportunities. Most adults read one or more magazines during an average month and nearly three out of five adults read or look into a magazine daily. Additionally, magazines published weekly quickly accumulate readership and provide timely and efficient notice to readers. The specific consumer magazines listed below were chosen because collectively they provide excellent reach of consumers.

KNC recommends the following activity:



- A full-page ad (4-5/16" x 6-1/2") will be placed once in *Jet*, with an estimated circulation of 900,000.
 - Published weekly, *Jet* is the leading newsweekly for the African-American community, combining national and global news with issues and information specific to the African-American community.
 - Approximately 64% of *Jet* readers graduated college and approximately 46% of readers have a household income of \$40,000+.
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- A full-page ad (5-3/4" x 9") will be placed once in *National Geographic*, with an estimated circulation of 5,000,000.
 - *National Geographic* is published monthly and provides coverage encompassing people and places of the world. Major topics include culture, nature, geography, ecology, science and technology.
 - *National Geographic* readers spend an average of 56 minutes with each issue and tend to be educated and upper-income.
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Newsweek

- A full-page ad (7" x 10") will be placed twice in *Newsweek*, with a circulation of 3,100,000.
 - *Newsweek* is published weekly and edited to report on national and worldwide developments with news, commentary and analysis.
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People MAGAZINE

- A full-page ad (7" x 10") will be placed twice in *People*, with an estimated circulation of 3,400,000.
 - *People* covers contemporary personalities in entertainment, politics, business and other current events.
 - Approximately 71% of *People* readers are female and approximately 71% are age 18-49.
 - The average issue of *People* is passed-along to 10.9 or more different people.
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Reader's Digest

- A full-page ad (4-3/4" x 6-3/4") will be placed once in *Reader's Digest*, with an estimated circulation of 10,000,000.
 - *Reader's Digest* is a monthly compendium of selected excerpts from other publications as well as original pieces.
 - *Reader's Digest* readers skew female and older with 61% women readers and 52% over the age of 50.
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Selecciones

- A full-page spread ad (4-3/4" x 6-3/4" - each page) will be placed once in *Selecciones*, with an estimated circulation of 375,000.
- *Selecciones* is the world's leading Spanish-language magazine that combines editorial written specifically for the Hispanic market with articles from *Reader's Digest*.



- A full-page ad (7" x 10") will be placed once in *Sports Illustrated*, with an estimated circulation of 3,150,000.
- *Sports Illustrated* is a weekly publication that covers sporting events and personalities through in-depth articles and stories.



- A full-page ad (7-3/4" x 10-1/2") will be placed twice in *US News & World Report*, with an estimated circulation of 2,000,000.
- *US News & World Report* is a weekly news magazine covering national and international people, places, and events.

TRADE PUBLICATIONS

Selected trade publications will be used to supplement the direct mail notice to TPPs as follows:



- A full-page ad (7" x 10") placed once in *National Underwriter Life & Health*, with an estimated circulation of 50,195.
- With a pass-along rate of 1.7 readers per copy, approximately 85,333 agents and brokers read the publication weekly. This includes 20,700 insurance company executives.
- *National Underwriter Life & Health* is the only weekly magazine serving the life, health and financial services market. It contains news and feature articles to help agents better understand products and markets, and insurance company executives identify new business opportunities. Topics covered include agency management, taxes, legislation, executive benefits, retirement planning and profitable sales ideas.



- A full-page ad (8" x 10-7/8") placed once in *HR Magazine*, with an estimated circulation of 195,528, and a readership of 547,478.
- *HR Magazine* is the official publication of the Society for Human Resource Management. It is written for human resources professionals and executives and to further the professional aims of both the Society and the human resource management profession. The publication features new approaches and innovative best practices in all areas of HR management and informs on new models of ways of thinking. It is designed as a forum for trends and legal issues as well as new concepts used by human resources management professionals. It has the highest readership of any human resources publication.

PRINT READERSHIP

Readership includes both primary readers and pass-along readers. Primary readers purchased a publication or are members of a household where the publication was purchased. Pass-along readers are those who read the publication outside the home, in places such as a doctor's or dentist's office. The table below indicates the number of readers in each of the target audiences of an average issue of the magazine:

| PUBLICATION | INSERTIONS | MEDICARE BENEFICIARIES | ADULTS 18+ |
|---------------------------------------|------------|------------------------|------------|
| <i>Jet</i> | 1 | 670,000 | 8,134,000 |
| <i>National Geographic</i> | 1 | 3,311,000 | 31,774,000 |
| <i>Newsweek</i> | 2 | 1,994,000 | 19,668,000 |
| <i>Parade Carrier Newspapers</i> | 1 | 8,712,000 | 78,572,000 |
| <i>People</i> | 2 | 2,636,000 | 37,562,000 |
| <i>Reader's Digest</i> | 1 | 5,987,000 | 40,319,000 |
| <i>Selecciones*</i> | 1 | n/a | n/a |
| <i>Sports Illustrated</i> | 1 | 1,342,000 | 20,502,000 |
| <i>USA Weekend Carrier Newspapers</i> | 1 | 6,151,000 | 50,537,000 |
| <i>US News & World Report</i> | 2 | 1,209,000 | 10,888,000 |

**Selecciones* is not measured by MRI and cannot be estimated with a prototype. Therefore, its contribution to the overall reach of the media is not calculated.

NATIONAL MEDIA DELIVERY

The paid media program outlined above is designed to deliver the following estimated reach and frequency measurements³ by October 22, 2006 based upon a July 15th Court Approval of the Notice Plan and Notices:

- An estimated 73.0%⁴ of Medicare Beneficiaries will be reached with an average estimated frequency of 2.0 times, delivering 32,256,268 gross impressions⁵.
- An estimated 71.8% of Adults 18+ will be reached with an average estimated frequency of 2.1 times, delivering 315,549,480 gross impressions.

The paid media program provides Class Members with multiple exposure opportunities to media vehicles carrying the Publication Notice.

| TARGET | % OF TARGET REACHED | AVERAGE FREQUENCY | GROSS IMPRESSIONS |
|------------------------|---------------------|-------------------|-------------------|
| Medicare Beneficiaries | 73.0% | 2.0 | 32,256,268 |
| Adults 18+ | 71.8% | 2.1 | 315,549,480 |

(The reach of *Selecciones* is not included in these estimates because it is not measured by MRI.)

The following reach and frequency estimates reflect the combined reach of the direct mail notice at two projected levels of Direct Mail:

| DIRECT MAIL PERCENTAGE | TARGET | % OF TARGET REACHED | AVERAGE FREQUENCY |
|------------------------|----------------------------|---------------------|-------------------|
| 50% | Medical Beneficiaries | 86.5 | 2.3 |
| 50% | Male Medical Beneficiaries | 85.9 | 2.3 |
| 75% | Medical Beneficiaries | 93.3 | 2.4 |
| 75% | Male Medical Beneficiaries | 93.0 | 2.4 |

The proposed Notice Program Schedule is attached as Exhibit 4.

³ MRI is a sample-based survey. Therefore, estimates of audience and/or demographics from these surveys are subject to sampling and non-sampling error. The use of mathematical values from those surveys should not be regarded as a representation that they are exact to the precise mathematical value stated.

⁴ The readership estimates for *Parade* and *USA Weekend* are reflective of the broader readership measurement of the newspaper carrier groups into which these supplements are inserted. A recent custom study conducted by MRI indicates that the actual readership of the supplements is less than that of the carrier papers. While this study provided directional insight into the audience, the data provided is highly variable and insufficient for use in specific computation of reach and frequency. Therefore, the use of carrier paper readership for the newspaper supplements remains the accredited methodology and standard of the industry according to MRI and the Media Research Council.

⁵ Gross impressions are the total number of times a media vehicle containing the Publication Notice is seen. This is a duplicated figure, as some viewers (readers) will see several media vehicles (publications) that contain the Publication Notice.

NOTICE DESIGN

PRINT DESIGN

The plain language Publication Notices, specifically tailored to either the TPPs or Medicare Part B Beneficiaries, have been designed to alert Class Members to the litigation through the use of a bold headline (Exhibit 5). This headline will enable Class Members to quickly determine if they are potentially affected by the litigation. Plain language text provides important information regarding the subject of the litigation, the Class definition and the legal rights available to Class Members.

Each advertisement will prominently feature a toll-free number, Web site and mailing addresses for Class Members to obtain the Long Form Notice and other information. The design of the Publication Notice takes into account empirical research developed over the past 30 years about how people read and assimilate information.

Recent revisions to Rule 23(c)(2) of the Federal Rules of Civil Procedure require class action notices to be written in “plain, easily understood language.” KNC drafts and places plain language ads fully compliant with this revision. The firm maintains a strong commitment to adhering to the plain language requirement while drawing on its experience and expertise to draft notices that effectively communicate with class members.

Every Publication Notice in consumer magazines will be page dominant, increasing visibility to Class Members. Half-page ads will be used in newspaper supplements, two-thirds page and full-page ads will be used in consumer magazines and full-page ads will be used in trade publications. After reviewing the content and special sections of each publication, the best possible position will be negotiated for placement of the Publication Notice.

EARNED MEDIA

The thrust of the earned media program is to amplify the notice to Class Members through the use of free media. The earned media portion of this notice program will augment the paid media plan developed to reach the Class. The third-party endorsement from reliable sources such as the news media can add immeasurable value to outreach efforts.

Outreach to print and electronic media will focus primarily on key daily newspapers, wire services, newspaper bureaus nationally and major television and radio outlets.

A press release will be distributed on US Newswire's Full National Circuit reaching over 2,000 media outlets. The press release will highlight the toll-free telephone number and Web site address that Class Members can call or visit for complete information.

THIRD-PARTY NOTICE

KNC identified 21 organizations that provide information on diseases and conditions for which some of the Defendants drugs are used. Exhibit 6 lists the primary indicator categories for which we were able to locate viable third-party organizations, the name of the organization and their communication vehicles. These organizations have online newsletters, trade publications, magazines and Web sites.

A press release will be sent to these organizations requesting them to disseminate the notice information to their constituencies. Follow-up phone calls will be made to encourage their participation in the notice efforts.

INFORMATIONAL WEB SITE

An informational interactive Web site is a critical component of the Notice campaign. The URL is a constant information source instantly accessible to millions. The informational Web site utilizes the Internet's ability to serve as a key distribution channel and customer service bureau. Combining clean site design, consistent site navigation clues and built-in flexibility, the Web site provides Class Members with easy access to the details of the litigation.

CLEAN DESIGN

The site is cleanly designed for ease of use and comprehension. Web pages on the site are simple, containing words, icons, documents and images.

A directory located in a column on the left-hand side of the page provides links to the information available on the Web site. These can include "Court Documents," "Long Form Notice," and "Questions/Links." The Web site can also feature a "Frequently Asked Questions" section answering commonly asked questions. If necessary, it will also provide a toll-free number for individuals seeking additional information and the address or email of Class Counsel,

CONSISTENT NAVIGATION CUES

Wherever the user goes from the homepage to another part of the site, links to the homepage and subsections remain on the left side of all pages, while the case title and cite remains fixed on top.

BUILT-IN FLEXIBILITY

Though simply designed, the Web site is not restrictive. The site's basic architecture enables updates and new features to be added quickly.

TOLL-FREE TELEPHONE SUPPORT

A toll-free interactive voice response system (IVR) will be established to service Class Members calling as a result of seeing the published notice. Callers requesting the *Notice of Class Action Pendency* will be prompted to input the telephone number of the residence where they would like to receive the Notice.

The system uses an address look-up database to locate the corresponding address of the resident. A portion of the address will be read back to the caller for address verification. For successful look-ups, the caller will be asked to speak the Class Member's full name and to spell the last name. If the look-up fails, is incorrect, or the call is placed from a rotary dial telephone, the caller will be prompted to speak the potential Class Member's name, address and telephone number.

The IVR system will provide an option for callers to speak to a live operator.

EXHIBIT 1

AFFECTED DRUGS
EXHIBIT 1
AstraZeneca

| <u>Drug Name</u> | <u>Treatment</u> | <u>Dosages</u> |
|-------------------------|--|--|
| ZOLADEX | Prostrate and breast cancer; Endometriosis | <u>Implant</u> : 3.6mg <u>Injection (3 month)</u> : 10.8mg <u>Kit for injection</u> : 10.8mg syringe; 3.6mg syringe |

Bristol-Myers Squibb Group

| <u>Drug Name</u> | <u>Treatment</u> | <u>Dosages</u> |
|-------------------------|--|---|
| BLENOXANE | Cancer of cervix and uterus, head and neck, or testicle and penile cancer; Hodgkin's disease | <u>Powder for Injection</u> : 15 Unit Vial; 30 Unit Vial |
| CYTOXAN | Cancer (primarily breast, ovarian); Leukemia; Nephrotic syndrome (kidney disease) | <u>Injection</u> : 100mg; 200 mg; 500mg; 1gm; 1x2gm; <u>Lyophilized Injection</u> : 100mg; 200mg; 500mg <u>Powder for Injection</u> : 500mg; 1gm; 2gm <u>Tablets</u> : 25mg; 50 mg |
| ETOPOPHOS | Lung and testicular cancer; Cancer of the lymph glands; Leukemia | <u>Powder for Injection</u> : 100mg |
| PARAPLATIN | Ovarian cancer | <u>Powder for Injection</u> : 50mg; 150mg; 450mg |
| RUBEX | Ovarian and breast cancer; Cancers of the bone, stomach, lung, bladder and thyroid; Leukemia | <u>Powder for Injection</u> : 10mg; 50mg; 100mg <u>Powder for Injection (Under Immunex label)</u> : 10mg; 50mg; 100mg |
| TAXOL | Ovarian and breast cancer; Lung cancer; Kaposi's sarcoma | <u>Injection</u> : 30mg; 30mg/5ml; 300mg/50ml <u>Injection Solution</u> : 100mg; 100mg/16.7ml |
| VEPESID | Testicular cancer; Small cell lung cancer | <u>Injection Solution</u> : 100mg; 150mg; 500mg; 1gm <u>Capsules</u> : 500mg |

Johnson & Johnson Group
Centocor, Ortho Biotech and Ortho McNeil

| <u>Drug Name</u> | <u>Treatment</u> | <u>Dosages</u> |
|-------------------------|---|---|
| REMICADE | Rheumatoid arthritis; Crohn's disease; Ulcerative colitis | <u>Intravenous Injection</u> : 100 mg vial |
| PROCIT | Anemia (especially anemia due to chemotherapy or HIV) | <u>Solution for Injection</u> : 2,000 Unit/ml; 3,000 Unit/ml; 4,000 Unit/ml; 10,000 Unit/ml; 20,000 Unit/ml; 40,000 Unit/ml |

Schering Plough Group
Schering Plough and Warrick Pharmaceuticals

| <u>Drug Name</u> | <u>Treatment</u> | <u>Dosages</u> |
|-------------------------|---|---|
| ALBUTEROL | Asthma, chronic bronchitis, emphysema, and other lung diseases | <u>Inhalation Solution</u> <u>Sulfate Inhalation Solution</u> |
| INTRON A | Melanoma, leukemia, hepatitis B and C, lymphoma, Kaposi's sarcoma | <u>Solution for Injection</u> : 10million, 18million, 30million, 60 million multidose pen; 3million, 5million, 10million, 18million, 25 million unit HSA-Free vials <u>Powder for Injection</u> : 3million, 5million, 10million, 18million, 25 million, 50million unit vials |
| PERPHENAZINE | Psychiatric disorders; Severe nausea and vomiting | <u>Tablets</u> : 2mg; 4mg; 8mg; 16mg |
| PROVENTIL | Asthma, bronchitis, and emphysema. | <u>Inhalation Solution</u> : 5mg/ml; .83mg/ml |
| TEMODAR | Cancerous brain tumors | <u>Capsules</u> : 5mg; 20mg; 100mg; 250mg |